

*3*) 51. (New). The method according to claim 50, wherein the start torque is determined in the start torque and engine acceleration power consumed, determining step in accordance with an electric power consumed by a starter and a known starter characteristic.

*3*) 52. (New) The method according to claim 50, further comprising the step of measuring during start a time between start and a starter disengagement speed being reached, the engine frictional torque being determined in the engine frictional torque determining step in further accordance with the measure time and a known constant fuel amount injected during the measured time.--.

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## REMARKS

### I. Introduction

With the cancellation herein, without prejudice, of claims 17 to 32, 34, 35, 37 and 38 and the addition of new claims 39 to 52, claims 33, 36 and 39 to 52 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO-1449 paper and cited references. However, Applicants note that the Examiner indicated that "no explanation of relevance" was provided with respect to German Published Patent Application Nos. 32 38 195 A1 and 41 31 969 C2, cited by Applicants in the Information Disclosure Statement and listed on the PTO-1449 paper filed on September 26, 2001. Pursuant to 37 C.F.R. § 1.98(a)(3), any information disclosure statement shall include a concise explanation of relevance of each patent, publication, or other information listed that is not in the English language. The concise explanation "may be either separate from the specification or incorporated therein." 37 C.F.R. § 1.98(a)(3) (emphasis added).

With respect to German Published Patent Application No. 32 28 195 A1, the

Examiner will note that the Specification provides a concise explanation of relevance at page 2, lines 15 to 19. With respect to German Published Patent Application No. 41 31 969 C2, the Examiner will note that the Specification provides a concise explanation of relevance at page 2, lines 7 to 13. It is therefore respectfully submitted that the Information Disclosure Statement and PTO-1449 paper fully satisfies the requirements of 37 C.F.R. § 1.98 with respect to German Published Patent Application Nos. 32 38 195 A1 and 41 31 969 C2. Applicants respectfully request consideration of these publications by the Examiner and respectfully request that the Examiner provide an initialed copy of the PTO-1449 paper with the next Office communication indicating consideration of these publications.

## **II. Objection to the Drawings**

The drawings were rejected under 37 C.F.R. § 1.83(a) as failing to show the invention as claimed. The Examiner contends that "the method as claimed in claims 17-32 and the device for carrying out the method as claimed in claims 33-38 are not clearly depicted in any of the drawings." Office Action at p. 2. As indicated above, method claims 17 to 32 have been canceled herein, without prejudice, and new method claims 39 to 52 have been added herein. It is respectfully submitted that the method recited in claims 39 to 52 and the device recited in claims 33 and 36 are adequately illustrated in the drawings, and withdrawal of this objection, or clarification thereof, is respectfully requested.

## **III. Abstract**

An Abstract was attached to the Preliminary Amendment filed on August 18, 2000. The Examiner states that "no new abstract was attached thereto" and "asked [Applicants] to resubmit said new abstract." Office Action at p. 3. The Examiner will note that attached hereto is a copy of the page entitled "Abstract of the Disclosure," which was attached to the Preliminary Amendment filed on August 18, 2000. No new matter has been added.

**IV. Objection to Claims 20, 28 and 34**

As indicated above, claims 20, 28 and 34 have been canceled herein without prejudice, thereby rendering the present objection moot. Withdrawal of this objection is therefore respectfully requested.

**V. Rejection of Claims 17 to 38 Under 35 U.S.C. § 112**

Claims 17 to 38 were rejected under 35 U.S.C. § 112, second paragraph as indefinite. As indicated above, claims 17 to 38 have been canceled herein without prejudice, thereby rendering the present rejection moot. Withdrawal of this rejection is therefore respectfully requested.

**VI. New Claims 39 to 52**

New claims 39 to 52 have been added herein. It is respectfully submitted that new claims 39 to 52 do not add any new matter and are fully supported by the present application, including the Specification. It is respectfully submitted that these claims are allowable. In addition, claim 33 has been amended herein to make reference to new claims 39 to 52.

**VII. Conclusion**

Attached hereto is a marked-up version of the changes made to the claims by the current Amendment. The attached page is captioned "**Version with Markings to Show Changes Made.**"

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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**Version with Markings to Show Changes Made**

**IN THE CLAIMS:**

Claims 17 to 32, 34, 35, 37 and 38 have been canceled without prejudice.

Claims 39 to 52 have been added.

Claim 33 has been amended as follows:

33. (Amended) A device for carrying out the method according to Claim [17, 18, 19, 21, 22, 23, 24, 25 or 26] 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51 or 52, wherein:

the device has a controller for processing and transforming measured data and at least one memory unit, characteristic curves needed for determining the viscosity being stored in the memory unit or in each memory unit.

### ABSTRACT OF DISCLOSURE

The present invention provides a method and device for determining the viscosity of motor oil in an internal combustion engine comprising: measuring frictional torque of the engine based on engine data, such as, the clutch switch signal which shows whether the clutch is engaged transmitting torque to the drive train; a generator load signal, a starter load signal, acceleration power consumption, and the like.